

PATENT
450110-02870

REMARKS

Reconsideration and withdrawal of the final rejection of the application are respectfully requested in view of the remarks herewith.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 1-5 and 25-32 are currently pending. In the amendment filed May 16, 2005, the Examiner properly noted that claim 30 on page 7 of said amendment was inadvertently numbered as claim 30 and should have been numbered as claim 31. Likewise, claim 31 at page 7 of said amendment was inadvertently numbered as claim 31 and should have been numbered as claim 32. The present amendment corrects this claim numbering. The Examiner is thanked for noting this error.

II. REJECTIONS UNDER 35 U.S.C. §103(a)

All the claims in this application, namely, claims 1-5 and 25-32, were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 5,956,458 (Sezan) in view of U.S. Patent No. 5,870,754 (Dimitrova) and U.S. Patent No. 6,799,180 (McGrath).

McGrath is disqualified as §103 prior art to the present application under the provisions of 35 U.S.C. 103(c)(1).

Under the provisions of 35 U.S.C. §103(c), as amended on November 29, 1999, presently 35 U.S.C. §103(c)(1), subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f) and (g) of 35 U.S.C. §102, shall not preclude patentability under §103 where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person or organization. McGrath and the present application were, at the time the present

00322836

PATENT
450110-02870

invention was made, subject to an obligation of assignment to the same organization, i.e., Sony United Kingdom, Limited.

As the McGrath reference meets the criteria to be considered a reference under 35 U.S.C. § 102(e), and has been assigned to the Sony United Kingdom, Limited, the same assignee as the instant application, it cannot properly be considered a reference under 35 U.S.C. § 103(a), as 35 U.S.C. § 103(c) expressly forbids such a reference from "precluding patentability."

Thus, all of the outstanding rejections based upon McGrath in the above-noted Office Action are overcome.

As another basis for withdrawing the rejection based upon McGrath, the present application is entitled to the British priority filing dates of November 5, 1999, March 1, 2000 and April 5, 2000. These priority dates antedate the September 7, 2000 U.S. filing date to which the McGrath patent is entitled. British priority applications 9926321.2, 0004973.4 and 0008435.0 are in English. Acknowledgment of this claim to priority and receipt of the certified copies of the British priority applications was acknowledged in the Office Action mailed January 13, 2005. It will be seen that claims 1-5 and 25-32 are fully supported by these British priority applications. In view of the earlier effective filing date of the present application, the McGrath reference is not available as prior art with respect hereto. It is, therefore, requested that this reference be removed and that the rejection of claims 1-5 and 25-32 under 35 USC 103 be withdrawn. See MPEP 201.15.

III. CONCLUSION

The rejection set out in the Final Office Action hereunder reply relies upon the McGrath patent to reject claims 1-5 and 25-32. McGrath is not available as a prior art reference to be used against the instant application. Accordingly, the rejection set out in the Final Rejection should

PATENT
450110-02870

be withdrawn and claims 1-5 and 25-32 should be noted as in condition for allowance. Early notice to that effect is respectfully solicited.

Please charge any fees that may be needed, and credit any overpayment, to our Deposit Account 50-0320.

Respectfully submitted,
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00322836

-9-